

Social Distancing Law Templates

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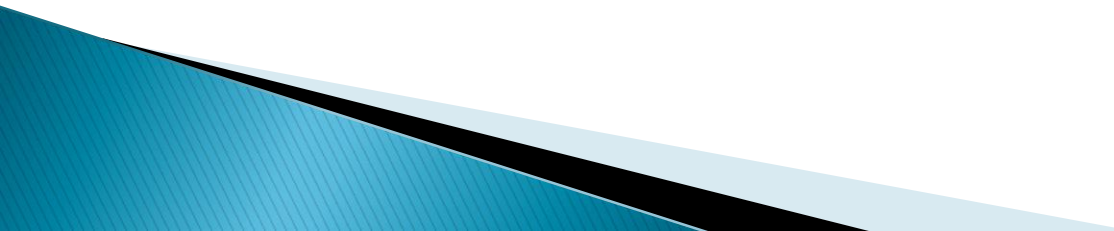
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Objectives

- ▶ Describe:
 - ASTHO Social Distancing Law Project
 - Impact of the project on participant state and territorial health agencies
- ▶ Gather feedback on the Social Distancing Law Templates
- ▶ Discuss needs and gaps in the field related to implementing social distancing measures/non-pharmaceutical interventions

Project Overview 2007–2010

- ▶ Administered by ASTHO with funding from the CDC Public Health Law Program
 - ▶ Provided grants to state and territorial health agencies to:
 - Assess the jurisdictional legal capacity to implement social distancing measures
 - Conduct a table-top exercise with key partners to improve collaboration and to address gaps identified in the legal assessment
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Rounds I & II

▶ 2007–2008

- Jurisdictions with federal quarantine stations, plus three border states
- 17 jurisdictions
- \$16,100–26,500

▶ 2009–2010

- Non-round I jurisdictions
- 9 jurisdictions
- \$12,500–25,000

Round I Participants

- ▶ Alaska
- ▶ California
- ▶ Connecticut
- ▶ District of Columbia
- ▶ Florida
- ▶ Georgia
- ▶ Hawaii
- ▶ Illinois
- ▶ Maryland
- ▶ Massachusetts
- ▶ Michigan
- ▶ New Jersey
- ▶ New York
- ▶ Puerto Rico
- ▶ Texas
- ▶ Virginia
- ▶ Washington

Round II Participants

- ▶ Alabama
- ▶ Missouri
- ▶ Nebraska
- ▶ New Hampshire
- ▶ North Dakota
- ▶ Ohio
- ▶ Oregon
- ▶ Pennsylvania
- ▶ Utah

Assessment Topics

Round I

- ▶ Restrictions on the movement of persons
- ▶ Establishing movement restrictions
- ▶ Group and area quarantine
- ▶ Due process and liability
- ▶ Quarantine enforcement and penalties
- ▶ Closure of public places
- ▶ Curfew
- ▶ Interjurisdictional cooperation
- ▶ Mass prophylaxis readiness

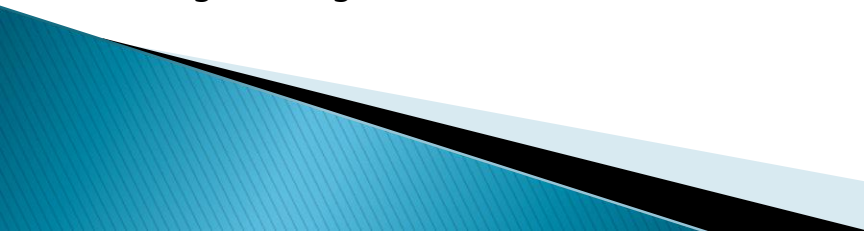
Round II

- ▶ Restriction on the movement of persons
- ▶ Inter-jurisdictional cooperation and restricting movement of persons
- ▶ Closure of public places
- ▶ Dismissal of schools
- ▶ Cancellation of mass gatherings

Example: Cancellation of Mass Gatherings

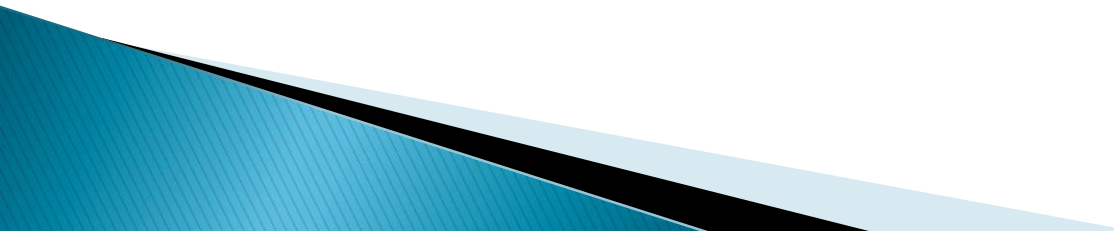
A. Legal authorities to order cancellation of mass gatherings during a declared public health emergency

Identify the legal authorities and procedures that enable, support, authorize, or otherwise provide a legal basis for state or local officials' cancellation of mass gatherings (e.g., city-wide holiday celebrations, large sporting events, and large trade shows) during a declared public health emergency. For each of the jurisdiction's relevant legal powers, authorities, and procedures—including, but not limited to, umbrella/overarching, general public health, or emergency powers or authorities.

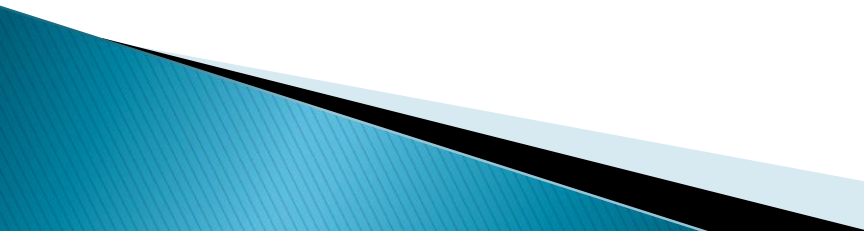
1. Which officials are authorized to declare cancellations of mass gatherings?
 2. Which officials are authorized to implement cancellations of mass gatherings?
 3. What is the process for initiating and implementing cancellations of mass gatherings?
 4. What is the process for enforcing cancellation; which officials are authorized to enforce cancellations of mass gatherings?
 5. What, if any, are the penalties for violating cancellations of mass gatherings orders?
 6. What procedural and due process requirements are associated with cancellations of mass gatherings?
 7. Is compensation available for cancellations of mass gatherings? If so, what is it and how is it accessed?
 8. How long can a mass gathering be suspended or postponed?
 9. How can an order to suspend or postpone mass gatherings be changed, renewed or extended?
 10. What legal authorities and procedures are associated with ending a suspension of mass gatherings order?
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B. Sufficiency of legal authorities to authorize cancellation of mass gatherings of public places during a declared public health emergency

Assess the sufficiency of the jurisdiction's legal authorities to cancel mass gatherings during a declared public health emergency and identify any potential gaps or uncertainties in those powers and authorities.

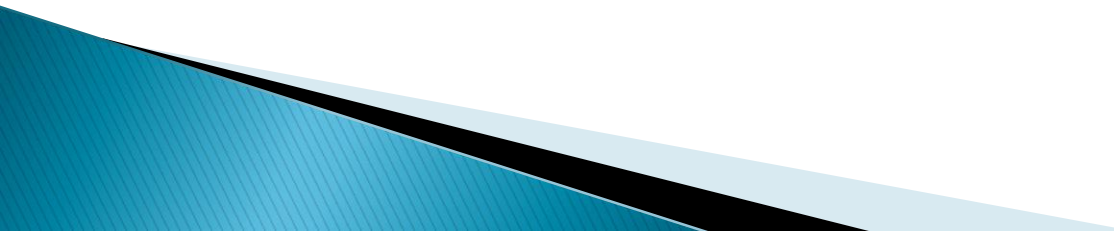
1. Are there potential gaps in those legal authorities?
 2. Are there potential uncertainties in those legal authorities?
 3. Are there any legal provisions that could inhibit, limit, or modify the jurisdiction's authority to cancel mass gatherings?
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C. Legal authorities to order cancellations of mass gatherings in the absence of a declared public health emergency

1. Which officials are authorized to declare cancellations of mass gatherings?
 2. Which officials are authorized to implement cancellations of mass gatherings?
 3. What is the process for initiating and implementing cancellations of mass gatherings?
 4. What is the process for enforcing cancellations of mass gatherings; which officials are authorized to enforce cancellations of mass gatherings?
 5. What, if any, are the penalties for violating cancellation of mass gatherings orders?
 6. What procedural and due process requirements are associated with cancellations of mass gatherings?
 7. Is compensation available for cancellations of mass gatherings? If so, what is it and how is it accessed?
 8. How long can a mass gathering be suspended or postponed?
 9. How can an order to suspend or postpone mass gatherings be changed, renewed or extended?
 10. What legal authorities and procedures are associated with ending a suspension of mass gatherings order?
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D. Sufficiency of legal authorities to cancel mass gatherings in the absence of a declared public health emergency

Assess the sufficiency of the jurisdiction's legal authorities to cancel mass gatherings in the absence of a declared public health emergency and identify any potential gaps or uncertainties in those powers and authorities.

1. Are there any potential gaps in those legal authorities?
 2. Are there any potential uncertainties about those legal authorities?
 3. Are there any legal provisions that could inhibit, limit, or modify the jurisdiction's authority to cancel mass gatherings?
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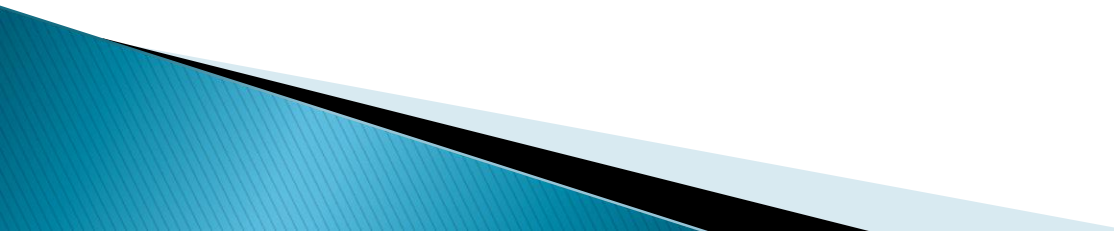
Exercise

November 20: Within the past 30 days, the World Health Organization (WHO), the U.S. Centers for Disease Control and Prevention (CDC), and other agencies have confirmed the isolation of a novel and highly virulent strain of influenza A (H5N1) from clinical specimens obtained from persons on several continents. Four days ago, on November 16, CDC announced confirmation of isolation of the same strain from ill persons in several U.S. states, even though the strain had not yet been isolated from any persons in your jurisdiction.

Preliminary findings from epidemiological investigations indicate the following:

- ▶ Illness typically presents as classical influenza with abrupt onset of fever, malaise, myalgia (muscle aches), cough, and runny nose.
- ▶ In approximately 20% of cases, illness rapidly progresses to a primary viral pneumonia, acute respiratory distress syndrome, and death.
- ▶ At-risk populations include persons in all age groups regardless of their previous health (i.e., includes persons who previously have been in good health, as well as those who with pre-existing chronic disease conditions).
- ▶ The average incubation period (i.e., time from patient's exposure to an infected person to time of onset of initial symptoms) is approximately 36–48 hours.

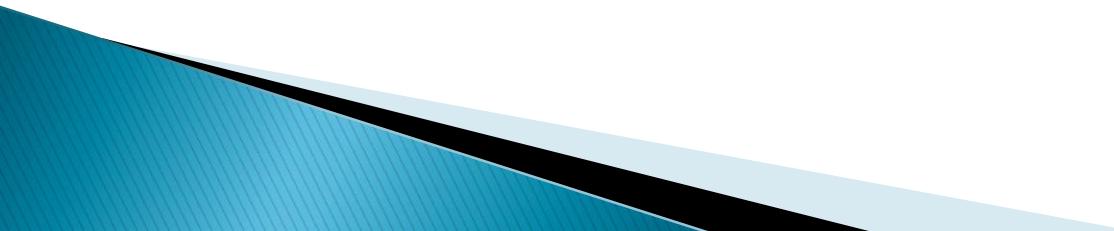
Given this information, the Governor/chief executive officer has asked members of the Pandemic Influenza Response Group to assess the situation and offer opinions on the merits of declaring a public health emergency. As part of this deliberation, the Governor/chief executive officer is asking the Attorney General/legal counsel for key agencies—including the health department, public safety, and emergency management—to confirm the status and sufficiency of authorities for the spectrum of measures that the Governor/chief executive officer might need to order into effect imminently.



Exercise participants

- ▶ State/territorial health agency
- ▶ Governor's office
- ▶ State department of justice
- ▶ State office of the attorney general
- ▶ Court system
- ▶ State department of transportation
- ▶ State hospital association
- ▶ Universities
- ▶ Local public health
- ▶ Local emergency management

Findings

- ▶ All jurisdictions concluded that legal authorities were sufficient to implement social measures.
 - ▶ Voluntary compliance will be as important as mandates.
 - ▶ Implementation, enforcement, and economic impact of greater concern than legal authorities.
 - Example: Large scale enforcement of restrictions on movement of persons would overwhelm law enforcement and the court system. Incarceration for violating such restrictions would likely defeat the purpose of social distancing.
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Impact

▶ Assessment

- Useful reference, internal and external

▶ Exercise

- Identified areas for partnership development and improvement
 - Ex. state homeland security agencies
- Validated effective partnerships
 - Some as a result of H1N1 response

▶ Future directions

- Springboard for collaboration on other issues
 - Ex. mass vaccination
- Legislative changes

Tools

▶ **Legal Assessment Template**

- <http://www.astho.org/Programs/Preparedness/ASTHO-Social-Distancing-Law-Project-Assessment-Template/>

▶ **Legal Consultation Meeting Template**

- <http://www.astho.org/Programs/Preparedness/ASTHO-Social-Distancing-Law-Project-Meeting-Template/>

Thank you